IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 12873 of 1994

For Approval and Signature:

HONOURABLE MS.JUSTICE H.N.DEVANI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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KIRITBHAI H PARIKH
Versus
STATE OF GUJARAT & ANR

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Appearance :
MR DHIRENDRA MEHTA for Petitioner
MS REETA CHANDARANA, AGP for Respondents No.1-3
RULE SERVED for Respondent No.2

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CORAM : HONOURABLE MS.JUSTICE H.N.DEVANI

Date : 02/08/2006

ORAL JUDGMENT

[1] By this petition under Articles 226 and 227 of the Constitution of India, the petitioner challenges the order dated 31.03.1986 passed by the Deputy Secretary, Revenue Department (Appeals), whereby the order dated 02.07.1981 passed by the Taluka Development Officer, Halol granting the permission for non-agricultural use in respect of the petitioner's land bearing Survey No.253 of Village: Meghasar, Taluka:Halol, District: Panchmahals admeasuring Acres 2 – 37 Gunthas, has been set aside.

[2] The petitioner had purchased a parcel of land admeasuring Acres 0 - 12 Gunthas of Survey No.253 paiki, situated at Village: Meghasar,Taluka: Halol by registered sale-deed dated 09.04.1984. The Taluka Development Officer, Halol vide order dated 02.07.1981 granted non-agricultural permission in respect of Acres 2 - 37 Gunthas of Survey No.253 which included the subject lands.

[3] By order dated 31.03.1986, the Deputy Secretary, Revenue Department (Appeals), in exercise of power under Section 211 of the Bombay Lands Revenue Code [for short “the Code”]took the aforesaid order dated 02.07.1981 passed by the Taluka Development Officer in Revision and by the impugned order dated 31.03.1986, the aforesaid order dated 02.07.1981 passed by the Taluka Development Officer was quashed and set aside. Hence, this petition.

[4] Heard Mr.D.K.Mehta, learned advocate for the petitioner and Ms.Reeta Chandarana, learned AGP for the respondents No.1 and 3. Though served, the respondent No.2 has not entered appearance.

[5] It is an admitted position between the parties that petitions involving identical issues being Special Civil Applications No.12419/1994 and 12874/1994, wherein orders passed by the Revisional Authority in exercise of powers under Section 211 of the Code setting aside the order dated 02.07.1981 passed by the Taluka Development Officer were subject matter of challenge; have

been decided by this Court by separate orders dated 10.03.2005, whereby the petitions have been allowed. It is submitted that accordingly, the issues raised in the present petition stand concluded vide the aforesaid decisions.

[6] In the circumstances, for the reasons stated in orders dated 10.03.2005, passed in Special Civil Applications No.12419/1994 and 12874/1994, the petition is allowed. The impugned order dated 31st March, 1986 passed by the Deputy Secretary in Revision Application No.SRD/BKHP/2415/86 is quashed and set aside, consequently the order dated 2nd July, 1981 passed by the Taluka Development Officer, Halol, stands restored. Rule is made absolute accordingly, with no order as to costs.

[H. N. DEVANI,J.]

(vijay)